



Procurement Strategy

December 2016

**Update in terms of S.15(1)(b) of the
Procurement Reform (Scotland) Act 2014**

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1. Introduction

The Procurement Reform (Scotland) Act 2014 (“**Act**”) requires any public organisation, which has an estimated total value of regulated procurement spend of £5 million or more (excluding VAT) in a financial year, to prepare and publish a Procurement Strategy. The period the Procurement Strategy covers can be defined by the organisation e.g. 3 years, 5 years, etc.

The first Procurement Strategy will need to be published by 31 December 2016, covering:

- the remainder of financial year in which 31 December 2016 occurs; and
- the first financial year starting after 31 December 2016 (for Scotland Excel this means its Strategy should cover through to 31 March 2018).

Scotland Excel has an existing Procurement Strategy (incorporated within its overall strategy entitled “*Shared Vision, Shared Success. Our Corporate Strategy 2015-2018*” – see Appendix 1) covering the period 1 April 2015- 31 March 2018. Under the Act there is no requirement for an organisation to prepare a completely new Procurement Strategy each year. An organisation must, however, review its Procurement Strategy annually and make such revisions as it considers appropriate for the purposes of the Act. This Procurement Strategy Update outlines Scotland Excel’s review of its Procurement Strategy and how it meets the mandatory requirements of the Act, and the Statutory Guidance under the Act to which Scotland Excel must have regard.

Scotland Excel’s current Procurement Strategy, sets out the strategic direction for its procurement activity through until March 2018 and sets out the context in which Scotland Excel will work to ensure that its procurement delivers value for money and directly contributes to the achievement of its aims and objectives. Together with its Sustainable Procurement Strategy (see Appendix 2) and respective Category Strategies (see Appendices 3 to 10), it reflects the Scottish Model of Procurement, and also demonstrates how Scotland Excel ensures it has considered the wider social, economic and environmental aims of procurement in a consistent manner as required by the sustainable procurement duty under the Act. Scotland Excel’s Procurement Strategy is also clear on how it will contribute to meeting the general duties in the Act.

A contracting authority should undertake relevant and proportionate consultation and engagement when preparing its Procurement Strategy. The purpose of this is to ensure that a contracting authority’s approach and Procurement Strategy takes account of stakeholders’ views and that stakeholders have the opportunity to engage and contribute to the development of the strategy. Scotland Excel has a range of different stakeholders and as such, has:

- identified different stakeholder groups;
- communicated effectively with them; and,
- considered those affected by its procurement activity.

In overall terms Scotland Excel has consulted widely in the development of all its activities and in doing so, has gained a better understanding of the needs of its stakeholders and developed its strategy to reflect those needs.

An organisation must publish its Procurement Strategy, including any revisions, on the internet and by any other appropriate means. Scotland Excel has published its current Procurement Strategy on its website <http://www.scotland-excel.org.uk/>.

The organisation must notify Scottish Ministers of the publication of its Procurement Strategy. Scotland Excel will do this by e-mail notification (containing this Procurement Strategy Update) to ProcurementStrategies@gov.scot.

2. Mandatory Requirements and Statutory Guidance Obligations

Section 15(5) of the Act sets out what a contracting authority must include as a minimum in its Procurement Strategy. These mandatory requirements and an outline of how Scotland Excel meets these obligations are provided below:

2.1 The authority must set out how it intends to ensure that its regulated procurements will contribute to the carrying out of its functions and achievement of its purposes.

Scotland Excel operates in a diverse range of areas across the Local Authority sector and its current Procurement Strategy aligns its procurement activities with its purpose (vision) and functions (mission). The purpose (vision) of Scotland Excel is to be the shared service partner of choice for the Local Government sector including housing associations, and its function (mission) is to deliver effective and customer-orientated shared services which support collaborative, innovative and sustainable public services, add measurable value for our customers, and bring tangible benefits for local communities and service users. (Please see the Strategy Map contained in the current Scotland Excel Procurement Strategy for further information). These purpose and functions contribute to the delivery of the Scottish Government National Outcomes.

Scotland Excel ensures that its procurement activity contributes to the carrying out of its functions and achievement of its purposes, by:

- effective and relevant consultation when developing its Procurement Strategy and Category Strategies;
- clear strategic priorities and a strong focus on monitoring and reporting performance;
- establishing high level commercial targets;
- undertaking comprehensive stakeholder consultation during procurement exercises;
- identifying and using outcomes as a measure of success; and
- effective contract and supplier management to monitor the effectiveness of its procured framework agreements.

Overall the delivery of Scotland Excel's Procurement Strategy and the implementation of its Category Strategies will ensure its procurement activity is delivered in a compliant, effective and efficient manner in pursuit of its functions and purposes.

2.2 The authority must set out how it intends to ensure that its regulated procurements will deliver value for money.

Scotland Excel believes good procurement can significantly improve the quality of services with the local authority sector. Scotland Excel fully agrees with and supports the Scottish Model of Procurement which defines value for money in procurement as not just being about cost and quality, but about the best balance of cost, quality and sustainability.

Scotland Excel's Procurement Strategy sets out how it intends to ensure that its regulated procurements will deliver value for money.

The balance of value for money in each procurement exercise will vary on a case-by-case basis. However by applying a key set of principles in its strategy, Scotland Excel maintains consistency and transparency in its procurement process. Scotland Excel considers the whole-life cost of what is being procured and when applying the principle of value for money, ensures that it does so in a clear, transparent and proportionate manner, in line with the general duties of the Act.

Overall Scotland Excel delivers value for money through:

- the successful delivery of the Procurement Strategy and Category Strategies;
- the application of procurement best practice (including, but not limited to, treating all relevant economic operators equally and without discrimination and acting in a transparent and proportionate manner through which competition is encouraged and value for money is achieved); and,
- undertaking key strategic procurement activities that include:
 - undertaking comprehensive Market Analysis;
 - utilisation of output specifications;
 - appropriate lotting and structuring of procurement exercises to encourage SME, Third Sector and Supported Business participation;
 - maximising value by incorporating Community Benefits;
 - application of effective commercial evaluation models; and,
 - robust contract management.

2.3 The authority must set out how it intends to ensure that its regulated procurements will be carried out in compliance with its duty to treat relevant economic operators equally and without discrimination.

Equal treatment and non-discrimination are fundamental procurement principles of the EU, and Scotland Excel follows these principles in all its procurement activities. By treating relevant economic operators equally and without discrimination, Scotland Excel facilitates greater competition, promotes innovation, and encourages a wider range of economic operators to become involved in public procurement.

Scotland Excel does this by measures such as:

- ensuring that its procurement procedures are conducted transparently to offer economic operators the opportunity to verify that Scotland Excel is treating all relevant economic operators equally and without discrimination (see section 2.4);
- consideration of the contract size, including the opportunity to break requirements into smaller lots to facilitate access to our frameworks for all types of economic operator;
- in planning its procurement activities, endeavouring to place the minimum burden possible on economic operators in order to facilitate greater access to procurements; and

- Scotland Excel’s Standing Orders relating to Contracts apply to all Scotland Excel procurements and contract management. The Standing Orders were duly revised and formally adopted in November 2016 to reflect the new procurement rules applicable in Scotland (particularly, Regulation 19 (Principles of procurement) of the Public Contracts (Scotland) Regulations 2015 (“**Regulations**”) and section 8 (General duties) of the Act). All procurement activity undertaken must comply with the above Standing Orders and Scotland Excel’s governance process and procedures which secure compliance with the Regulations, the Act and Statutory Guidance.

2.4 The authority must set out how it intends to ensure that its regulated procurements will be carried out in compliance with its duty to act in a transparent and proportionate manner.

Scotland Excel is committed to acting in a transparent and proportionate manner.

To deliver its procurement activity in such a manner, Scotland Excel:

- engages in early market engagement prior to the publication of a contract notice on Public Contracts Scotland (PCS);
- ensures full compliance with the Regulations and Act to run its procurement procedures transparently, for example, by:
 - publishing: contract notices on PCS and the OJEU; clear procurement documents and specifications setting out minimum requirements and assessment methodologies; and contract award notices on PCS and the OJEU; and,
 - providing comprehensive written debriefing of successful and unsuccessful tenderers.
- uses electronic communication for all procurement activity;
- subscribes to open public and market engagement;
- prescribes the use of clear language in all procurement documents and communications with Tenderers to ensure a common understanding of the requirements; and,
- places the minimum possible qualification requirements on economic operators to be able to bid for our framework agreements.

2.5 The authority must set out how it intends to ensure that its regulated procurements will be carried out in compliance with the sustainable procurement duty.

The Act implements a national legislative framework for sustainable public procurement in Scotland. Scotland Excel has, in developing its Sustainable Procurement Strategy, considered and paid due regard to the sustainable procurement duty.

Scotland Excel has implemented a robust and relevant approach to sustainable procurement that is proportionate to the scope and characteristics of its procurement activities.

In line with the Act, Scotland Excel has:

- incorporated sustainable procurement objectives within its Procurement Strategy;

- developed a Sustainable Procurement Strategy to further embed the principles of sustainable procurement;
- updated Standing Orders to reflect the new procurement rules; and
- embedded the use of sustainability tools within our procurement processes (e.g. the Sustainability Test, the Prioritisation Tool and the Flexible Framework).

2.6 Statement of the authority's general policy on the use of community benefit requirements.

Scotland Excel believes that public procurement contracts can help realise a wide range of social and environmental benefits, including more and better employment opportunities. Community benefits delivered as a result of expenditure against Scotland Excel Frameworks have been shown to contribute to local and national outcomes relating to employability and skills

Scotland Excel's Sustainable Procurement Strategy sets out how it ensures compliance with relevant legislation, statutory guidance, and implements best practice.

Further Scotland Excel's Sustainable Procurement Strategy together with its category strategies outline the types of community benefits it hopes to achieve in particular contracts areas.

2.7 Statement of the authority's general policy on consulting and engaging with those affected by its procurements.

A fundamental factor in the way in which Scotland Excel manages all its activities is to ensure effective consultation and engagement with those affected by its procurements to understand the needs of its area, to analyse the impact of its public procurement activity and, where relevant and proportionate, allows the views of those affected to be expressed and taken into account.

Scotland Excel's Procurement Strategy outlines how it will consult and engage with those affected by its procurements and how the outcomes of the consultation will be used to inform and influence Scotland Excel's procurement activities.

Scotland Excel continues to engage with its stakeholders in a number of ways including the use of forums known as User Intelligence Groups, via its recently developed website, and through its' helpline and surveys.

2.8 Statement of the authority's general policy on the payment of a living wage to persons involved in producing, providing or constructing the subject matter of regulated procurements.

Scotland Excel believes that those organisations which have a diverse workforce and whose staff are well rewarded, motivated and led and who have appropriate opportunities for training and skills development are likely to deliver higher quality services.

Scotland Excel considers payment of the living wage to be a significant indicator of an employer's commitment to fair work practices and that payment of the living wage is one of

the clearest ways that an employer can demonstrate that it takes a positive approach to its workforce.

Scotland Excel itself is a Living Wage Accredited Employer and promotes this at various events and forums to suppliers, potential suppliers and members.

In developing its position on the payment of the living wage, Scotland Excel has taken account of relevant legislation and other statutory guidance, in particular the “Statutory Guidance on the Selection of Tenderers and Award of Contracts – Addressing Fair Work Practices, including the Living Wage, in Procurement”. In practical terms this means:

- considering what types of goods, works and services contracts in relation to which it may be relevant to address living wage and fair work practices;
- considering how its living wage position will be approached in a way which takes account of other relevant factors, while ensuring an appropriate balance between quality and cost; and,
- considering how it will ensure a proportionate approach, based on the nature, scope, size and place for the performance of the contract.

As a result, the default position in Scotland Excel procurements is to assess and score (where appropriate) the extent to which Tenderers commit to engaging in fair work practices in delivering the contracts under the proposed framework agreement, and seeking non-assessed information on the Tenderers’ commitment to paying the living wage.

2.9 Statement of the authority’s general policy on promoting compliance by contractors and sub-contractors with the Health and Safety at Work.

Scotland Excel is committed to ensuring that nothing purchased by it should be at the expense of the health and safety of those who are involved in manufacturing, construction or provision of goods, works and services.

In all its procurement exercises Scotland Excel considers how it will assess the potential health and safety risks arising from a particular contract and how it will monitor contracts to ensure compliance with health and safety requirements. Health and safety requirements are specified in all procurement exercises conducted by Scotland Excel. These Health and Safety requirements will vary according to the goods, works or services being purchased and are therefore considered on a case-by-case basis.

For example, in terms of accepting that a Tenderer is qualified to tender, Scotland Excel’s default position is to request that Tenderers confirm, and provide evidence to demonstrate, that they comply with current health and safety legislation. In terms of awarding places on a framework agreement, if there is specific health and safety concerns relating to a particular procurement, Scotland Excel will require Tenderers to detail, as part of their tenders, the measures they would implement to respond to the identified risks. Scotland Excel will where appropriate also request details of how Tenderer actively promotes and manages good health and safety practice, such as through training and the communication of relevant information to staff where this is linked to the subject matter of the framework.

2.10 Statement of the authority's general policy on the procurement of fairly and ethically traded goods and services.

Scotland Excel considers the relevant and proportionate application of fair and ethical trading principles in its procurement activities.

In its procurement activity Scotland Excel, where relevant and appropriate to the framework agreement's subject matter, includes conditions relating to the performance of the contract to ensure that the economic operator complies with environmental, social and employment law, and may disqualify a Tenderer for previous violation of such laws.

As part of Scotland Excel's contract management activity it works with contractors to best ensure, in so far as is practicable, fair and ethical practices in supply chains.

Scotland Excel ensures that procurement requirements relating to fairly and ethically traded goods and services are applied in a relevant, proportionate and legally compliant manner.

2.11 Statement of the authority's general policy on how it intends its approach to regulated procurements involving the provision of food to improve the health, wellbeing and education of communities in the authority's area, and promote the highest standards of animal welfare.

Scotland Excel recognises that the expenditure on food through its frameworks has the potential to unlock benefits for community health, well-being and social justice through access to good nutrition, including access to fresh and seasonal produce.

Scotland Excel's procurement requirements relating to food procurement focus on nutritional quality, health and wellbeing, minimising environmental impact (such as packaging and sourcing) as well as the application of appropriate animal welfare standards in accordance with all relevant legislation.

2.12 The authority must set out how it intends to ensure that, so far as reasonably practicable, the following payments are made no later than 30 days after the invoice: payments due by the authority to a contractor; payments due by a contractor to a sub-contractor; and, payments due by a sub-contractor to a sub-contractor.

Late payment legislation places a statutory duty on all public bodies to pay commercial debt within 30 days. Legislation also allows businesses to claim interest and recovery costs if goods and services are not paid for on time

Scotland Excel is committed to ensuring that businesses are paid on time because we understand how important it is to pay businesses promptly once a service has been performed or goods delivered. Late payment is particularly detrimental to SMEs, third sector bodies and supported businesses.

Payment clauses requiring a 30 day payment term are included within our contractual terms and conditions.

LIST OF APPENDICES

No.	Title	Internet link
1	Shared Vision, Shared Success. Our Corporate Strategy 2015-2018	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
2	Sustainable Procurement Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
3	Construction Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
4	Corporate Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
5	Education Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
6	Environment Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
7	Fleet Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
8	ICT Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
9	Roads Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx
10	Social Care Category Strategy	http://www.scotland-excel.org.uk/home/Resources/Publications.aspx